

CONSTRUCTION DEBRIS

Ever wonder what becomes of all the rubble that is left after a house is built or an old building is torn down? Under the law of economics, any salvageable brick, steel, or concrete is collected for resale and reuse. But under the law of Ohio, the remaining wreckage can be carted away and dumped in little more than a hole in the ground.

That's because Ohio is one of the few states that treats construction and demolition debris (CDD) differently than mixed municipal waste. Lawmakers historically have accepted the notion that CDD waste is inert and poses no threat to groundwater or land, even though government and university studies have confirmed that dangerous chemicals can leach out of CDD landfills.

The only two restrictions in Ohio law on the siting of a CDD landfill are that it cannot be located over a federally-designated sole source aquifer (a groundwater supply that is the only source of drinking water for a community) or in a 100-year floodplain (a low area that is prone to flooding every 100 years, on average). Solid waste landfills (which accept municipal wastes), meanwhile, are required by law to meet strict siting criteria, to install protective liners, and to monitor groundwater for possible contamination.

The word is out about Ohio. Its minimal environmental criteria for CDD landfills make Ohio a cheap place to dump CDD waste. Every day trainloads of out-of-state waste arrive in eastern Ohio—much of it from construction and demolition sites on the East Coast. According to the state EPA, Ohio accepted more out-of-state CDD waste (2.8 million tons) than out-of-state municipal garbage (2.2 million tons) in 2002, the most recent year for which data is available.

Ohio House Bill 432 (125th General Assembly; Effective April 15, 2005)

The General Assembly passed legislation in 2004 that will both help and hurt. House Bill 432: establishes desperately needed statewide disposal fees to fund licensing, inspection, and enforcement by the Ohio EPA and by local county health departments; funds the installation of groundwater monitoring wells and pays to conduct groundwater monitoring at any CDD landfill; prohibits disposing of any solid waste in a CDD landfill sited over a sole source aquifer; redefines construction and demolition debris to include “particles and dust created during demolition activities;” and amends the prohibition on placing any solid waste in a CDD landfill to specify that it shall not be a violation to have up to 2 cubic yards of solid waste per 1,000 cubic yards of total waste deposited on a landfill's working face and the solid waste is removed.

“Low rent, high risk.” That sums up Ohio's construction and demolition debris laws and their lax siting criteria and environmental controls. Both health officials and industry officials agree that Ohio's weak laws make it a target for out-of-state waste.



On the one hand, the new law offers local health districts a desperately needed funding source for inspection and enforcement at the 71 CDD landfills located across the state and also provides for the eventual installation and operation of groundwater monitoring equipment at CDD landfills that do not have such equipment.

Unfortunately, the new law is undercut by two loopholes: First, the “particles and dust” language undercuts current Ohio law’s prohibition on the acceptance of unrecognizable waste at a CDD landfill. Second, the bill maintains but severely compromises current Ohio law’s zero tolerance of any amount of solid waste being placed in a CDD landfill. These loopholes open the door for increasing tons of out-of-state solid waste—including used containers of household chemicals, rat killer, bleach, and pesticides—to be commingled with CDD for disposal in landfills with no liners, no groundwater monitoring, and no post-closure care.

RECOMMENDATIONS

Ohio’s pitifully weak CDD disposal laws need an overhaul, and the General Assembly should be guided by the following facts in doing so:

1. Current Ohio law—which provides only minimal siting criteria and minimal environmental controls for CDD facilities—is not adequate to protect groundwater from contamination.
2. Even “true” CDD waste can contain materials of concern, such as toxic adhesives, that can contaminate water supplies and can pose a threat to human health.
3. Increasing amounts of CDD waste are likely to be disposed of in Ohio.
4. State and local regulators have confirmed that unknown quantities of unknown waste with unknown risks are already finding their way into CDD facilities in Ohio.
5. Despite its prohibition, solid waste—which lawfully can include household hazardous waste—is finding its way into CDD facilities in Ohio.

The best solution: treat CDD waste the same as solid waste.

Ohio should follow the example of most other states and regulate CDD waste for what it is—solid waste. Legislation (Ohio House Bill 59) recently has been introduced in the Ohio House of Representatives to establish standards and safeguards governing the physical siting of new CDD facilities that are at least as stringent as the siting criteria for solid waste facilities. This legislation, in tandem with mandatory criminal background checks for new CDD facilities and post-closure monitoring and financial assurance for new and existing CDD facilities, as proposed in Ohio House Bill 75, would go a long way to shore up Ohio law.

FOR MORE INFORMATION

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